

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

PETER GRIGG,

Plaintiff,

vs.

BARBARA BENSON,

Defendant.

CV 23–67–M–DLC–KLD

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Order and Findings and Recommendation. (Doc. 4.) Judge DeSoto recommends dismissing Plaintiff Peter Grigg’s complaint with prejudice for failure to state a claim on which relief should be granted and certifying that any appeal from this disposition would not be taken in good faith. The Court agrees and will adopt Judge DeSoto’s Findings and Recommendation in full.

A party is only entitled to de novo review of those findings to which he or she specifically objects. 28 U.S.C. § 636(b)(1)(C). In the absence of an objection, this Court reviews findings for clear error. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error review is “significantly deferential” and exists when the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Judge DeSoto's Findings and Recommendation notified Mr. Grigg of his right to object to her conclusions (Doc. 4 at 6), but he did not object.

The Court agrees with Judge DeSoto's conclusion that Defendant Special Master Barbara Benson is entitled to absolute quasi-judicial immunity concerning the allegations in Mr. Grigg's complaint, which all stem from her unquestionably judicial acts performed within her jurisdiction while presiding as Special Master over Mr. Grigg's marriage dissolution proceedings. (Doc. 4 at 5.) The Court further agrees with Judge DeSoto's conclusion that the deficiencies identified cannot be cured by amendment of the complaint, and because amendment would be futile, the complaint should be dismissed with prejudice. (*Id.*)

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 4) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Grigg's complaint (Doc. 2) is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close the case and enter judgment in favor of the defendant pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in

good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the instant Complaint lacks arguable substance in law or fact.

DATED this 6th day of July, 2023.



Dana L. Christensen, District Judge
United States District Court